

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MOTION FOR BAIL FOLLOWING PRETRIAL DETENTION

Now comes the Defendant, Judemario Josaphat, Jr., and respectfully moves this Honorable Court to reconsider the revocation of his pretrial release by Honorable Boal, M.J., on July 19, 2021. Mr. Josaphat is requesting that this Court release him on conditions of GPS and home confinement, where he will reside with his parents in Lynn.

Mr. Josaphat was initially released pending trial on the above-referenced docket. He is a graduate of Merrimack College, who hails from Lynn, MA, where he lived with his mother and father. His mother is a recently retired nurse, and his father works for the MBTA. Despite his education and family support, student loan payments put significant financial strain on Mr. Josaphat. Mr. Josaphat has no prior criminal history.

On May 27, 2021, Mr. Josaphat was arrested for a new offense out of Quincy District Court, resulting from a stop by the Massachusetts State Police, during which pills were located in the trunk of the vehicle. The new offense was the reason the Government sought detention. Mr. Josaphat did report to his probation officer that he had been arrested on the Quincy matter, and voluntary appeared at court to surrender himself to the federal authorities. At the time of the detention hearing, Trooper Texeira of the Massachusetts State Police provided testimony. Since

that time, defense counsel has obtained the body camera footage of Trooper Texeira, which greatly discredits a number of statements made by Trooper Texeira during his testimony. Significantly, the body camera footage does not display the combative behavior alleged to have been displayed by Mr. Josaphat, which Trooper Texeira represented as a violent struggle. Indeed, Mr. Josaphat appears to be very cooperative and compliant with the Trooper as he rifles through the entire interior of his car. After Mr. Josaphat informed the Trooper that he did not consent to a search of the trunk, Trooper Texeira attempts to handcuff Mr. Josaphat and takes him to the ground. Due to Mr. Josaphat's body size and health conditions, he was in significant pain while face down on the ground and notified the Trooper as such. It appears there was some difficulty getting Mr. Josaphat into handcuffs, but not due to violent active resistance, rather, the discomfort of the position in which the Trooper had him. The body camera footage does not show Mr. Josaphat ripping off a radio or doing any act overtly aggressive towards the Trooper. Further, since the time of the detention hearing, the charges have been reduced from Trafficking to Possession With Intent to Distribute.

Additionally, Mr. Josaphat asks the Court to consider the recent outbreak of COVID-19 at the Wyatt Detention Facility where he is held. According to an article dated September 23, 2021, 50 detainees and 7 staff members had tested positive for COVID at the facility that week. (See Exhibit 1). Mr. Josaphat suffers from a number of underlying health conditions that would put him at high risk for complications if he were to contract COVID-19. Mr. Josaphat is asthmatic and diabetic; he also suffers from gout. He is being treated for both his diabetic and asthmatic conditions at Wyatt. Mr. Josaphat respectfully submits that the recent outbreak of COVID-19 at the Wyatt Detention Facility constitutes an independent compelling reason

warranting Mr. Josaphat's temporary return to pretrial release, and rebuts the statutory presumption of dangerousness, tilting the balance in favor of release.

WHEREFORE, based on the changed circumstances described herein, Mr. Josaphat respectfully requests to be released on the condition of home confinement and a GPS.

Respectfully submitted,

JUDEMARIO JOSAPHAT, JR.
By his attorney,

/s/ Megan E. Stanley
MEGAN E. STANLEY

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and will be sent electronically to the registered participants identified on the Notice of Electronic Filing (NEF).

Dated: October 4, 2021

By: /s/ Megan E. Stanley
Megan E. Stanley, Esq.